

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION OF BIG RIVERS |) | CASE NO. |
| ELECTRIC CORPORATION FOR |) | 2021-00378 |
| ENFORCEMENT OF COMMISSION ORDER |) | |

ORDER

Big Rivers Electric Corporation (BREC) filed an application with this Commission pursuant to 807 KAR 5:001, Section 19, and KRS 278.030, 278.040, 278.200, and 278.390 requesting the Commission use its discretionary authority granted under KRS 278.390 to enforce its final Order in Case No. 2019-00269¹ through an application to Franklin Circuit Court.

The final Order in Case No. 2019-00269 was appealed by the city of Henderson and the Henderson Utility Commission d/b/a Henderson Municipal Power and Light (jointly, Henderson) to the Franklin Circuit Court. That action is pending as Civil Action No. 21-CI-00667. BREC has asserted a counterclaim in Civil Action No. 21-CI-00667 seeking the same relief as the instant application, i.e., to enforce the Commission's final Order in Case No. 2019-00269. Henderson has moved to dismiss that counterclaim, and the motion to dismiss is currently pending.

Considering the multiplicity of actions currently pending in Franklin Circuit Court related to the subject matter of the underlying case, as well as the pending motion to dismiss the counterclaim - a claim requesting the identical relief from the Franklin Circuit

¹ Case No. 2019-00269, *Electronic Application of Big Rivers Electric Corporation for Enforcement of Rate and Service Standards* (Ky. PSC Aug. 8, 2021).

Court as is sought here - the Commission finds that it is appropriate to abstain from ruling on BREC's application pending more clarity from the Franklin Circuit Court on the claims and motions asserted in that forum.

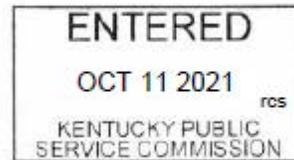
IT IS HEREBY ORDERED that:

1. BREC's application is held in abeyance pending a ruling from the Franklin Circuit Court on Henderson's motion to dismiss BREC's counterclaim filed in Civil Action No. 21-CI-00667;

2. BREC shall provide the Commission notice of entry of any orders of the Franklin Circuit Court related to its counterclaim and the motion to dismiss in this docket; and

3. This docket shall remain open pending further action of the Franklin Circuit Court and all other pending motions shall be held in abeyance under further Order of the Commission.

By the Commission



ATTEST:


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